

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against:**

**BRIAN BAO-KHA NGUYEN dba  
WARNER VILLAGE PHARMACY,  
Pharmacy Permit No. PHY 51984;**

**and**

**KHANH HUU PHUONG NGUYEN,  
Pharmacist License No. RPH 50052,**

**Respondents**

**Agency Case No. 6859**

**OAH No. 2020110549**

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 25, 2021.

It is so ORDERED on July 26, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly distinguishable.

Seung W. Oh, Pharm.D.  
Board President

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Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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8

9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **BRIAN BAO-KHA NGUYEN, DBA**  
14 **WARNER VILLAGE PHARMACY**  
15 **10900 Warner Avenue, Suite 114**  
**Fountain Valley, CA 92708**

16 **Pharmacy Permit No. PHY 51984,**

17 **and**

18 **KHANH HUU PHUONG NGUYEN**  
19 **19240 Chandon Ln**  
**Huntington Beach, CA 92648**

20 **Pharmacist License No. RPH 50052**

21 Respondents.

Case No. 6859

OAH No. 2020110549

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

22  
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
27 (Board). She brought this action solely in her official capacity and is represented in this matter by

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1 Rob Bonta, Attorney General of the State of California, by Rita M. Lane, Deputy Attorney  
2 General.

3 2. Respondents Brian Bao-Kha Nguyen, dba Warner Village Pharmacy and Khanh Huu  
4 Phuong Nguyen (collectively Respondents) are represented in this proceeding by Ivan Petrzelka,  
5 of California Pharmacy Lawyers, whose address is: 55 Cetus, First Floor, Irvine, CA 92618-  
6 6713.

7 3. On or about December 10, 2014, the Board issued Pharmacy Permit No. PHY 51984  
8 to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy (Respondent WV Pharmacy). The  
9 Pharmacy Permit was in full force and effect at all times relevant to the charges brought in  
10 Accusation No. 6859, and will expire on December 1, 2021, unless renewed.

11 4. On or about April 6, 1998, the Board issued Pharmacist License Number RPH 50052  
12 to Khanh Huu Phuong Nguyen (Respondent Khanh Nguyen). The Pharmacist License was in full  
13 force and effect at all times relevant to the charges brought herein and will expire on June 30,  
14 2023, unless renewed.

### 15 **JURISDICTION**

16 5. Accusation No. 6859 was filed before the Board, and is currently pending against  
17 Respondents. The Accusation and all other statutorily required documents were properly served  
18 on Respondents on April 9, 2020. Respondents timely filed their Notice of Defense contesting  
19 the Accusation.

20 6. A copy of Accusation No. 6859 is attached as Exhibit A and incorporated herein by  
21 reference.

### 22 **ADVISEMENT AND WAIVERS**

23 7. Respondents have carefully read, fully discussed with counsel, and understands the  
24 charges and allegations in Accusation No. 6859. Respondents have also carefully read, fully  
25 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary  
26 Order.

27 8. Respondents are fully aware of their legal rights in this matter, including the right to a  
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on their own behalf; the  
2 right to the issuance of subpoenas to compel the attendance of witnesses and the production of  
3 documents; the right to reconsideration and court review of an adverse decision; and all other  
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
6 every right set forth above.

### 7 **CULPABILITY**

8 10. Respondents understand and agree that the charges and allegations in Accusation No.  
9 6859, if proven at a hearing, constitute cause for imposing discipline upon their Pharmacy Permit  
10 and Pharmacist License.

11 11. For the purpose of resolving the Accusation without the expense and uncertainty of  
12 further proceedings, Respondents agrees that, at a hearing, Complainant could establish a factual  
13 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest  
14 those charges.

15 12. Respondents agree that their Pharmacy Permit and Pharmacist License are subject to  
16 discipline and they agree to be bound by the Board's probationary terms as set forth in the  
17 Disciplinary Order below.

### 18 **CONTINGENCY**

19 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents  
20 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may  
21 communicate directly with the Board regarding this stipulation and settlement, without notice to  
22 or participation by Respondents or their counsel. By signing the stipulation, Respondents  
23 understand and agree that they may not withdraw their agreement or seek to rescind the  
24 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
25 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
26 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
27 the parties, and the Board shall not be disqualified from further action by having considered this  
28 matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 51984 issued to Respondent Brian Bao-Kha Nguyen, dba Warner Village Pharmacy is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions

### 1. Definition: Respondent

For the purposes of these terms and conditions, “respondent” shall refer to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy. All terms and conditions stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by respondent to or before the board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

## 2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

### **3. Report to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

### **4. Interview with the Board**

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
2 the period of probation, shall be considered a violation of probation.

3 **5. Cooperate with Board Staff**

4 Respondent shall timely cooperate with the board's inspection program and with the board's  
5 monitoring and investigation of respondent's compliance with the terms and conditions of Entity  
6 probation, including but not limited to: timely responses to requests for information by board  
7 staff; timely compliance with directives from board staff regarding requirements of any term or  
8 condition of probation; and timely completion of documentation pertaining to a term or condition  
9 of probation. Failure to timely cooperate shall be considered a violation of probation.

10 **6. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, respondent shall pay to the  
12 board its costs of investigation and prosecution in the amount of \$8,000.00. Respondent shall be  
13 jointly and severally liable for all of said costs with Respondent Khanh Nguyen. Respondent  
14 shall make said payments according to a plan that is approved by the board or its designee. There  
15 shall be no deviation from this schedule absent prior written approval by the board or its designee.  
16 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

17 Respondent shall be permitted to pay these costs in a payment plan approved by the board  
18 or its designee, so long as full payment is completed no later than one (1) year prior to the end  
19 date of probation.

20 **7. Probation Monitoring Costs**

21 Respondent shall pay any costs associated with probation monitoring as determined by the  
22 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
23 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
24 be considered a violation of probation.

25 **8. Status of License**

26 Respondent shall, at all times while on probation, maintain current pharmacy permit with  
27 the board. Failure to maintain current licensure shall be considered a violation of probation.

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1 If respondent's license expires or is cancelled by operation of law or otherwise at any time  
2 during the period of probation, including any extensions thereof or otherwise, upon renewal or  
3 reapplication respondent's license shall be subject to all terms and conditions of this probation not  
4 previously satisfied.

5 **9. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent wish to discontinue  
7 business, respondent may tender the premises license to the board for surrender. The board or its  
8 designee shall have the discretion whether to grant the request for surrender or take any other  
9 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
10 license, respondent will no longer be subject to the terms and conditions of probation.

11 Respondent may not apply for any new license from the board for three (3) years from the  
12 effective date of the surrender. Respondent shall meet all requirements applicable to the license  
13 sought as of the date the application for that license is submitted to the board.

14 Respondent further stipulates that it shall reimburse the board for its costs of investigation  
15 and prosecution prior to the acceptance of the surrender.

16 Upon acceptance of the surrender, respondent shall relinquish the premises wall and  
17 renewal license to the board within ten (10) days of notification by the board that the surrender is  
18 accepted. Respondent shall further submit a completed Discontinuance of Business form  
19 according to board guidelines and shall notify the board of the records inventory transfer within  
20 five (5) days. Respondent shall further arrange for the transfer of all records of acquisition and  
21 disposition of dangerous drugs and/or devices to premises licensed and approved by the board.

22 Respondent shall also, by the effective date of this decision, arrange for the continuation of  
23 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing  
24 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more  
25 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary  
26 in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to  
27 the pharmacy's ongoing patients, Respondent shall provide a copy of the written notice to the  
28 board. For the purposes of this provision, "ongoing patients" means those patients for whom the

1 pharmacy has on file a prescription with one or more refills outstanding, or for whom the  
2 pharmacy has filled a prescription within the preceding sixty (60) days.

3 Respondent may not apply for any new license from the board for three (3) years from the  
4 effective date of the surrender. Respondent shall meet all requirements applicable to the license  
5 sought as of the date the application for that license is submitted to the board.

6 Respondent further stipulates that it shall reimburse the board for its costs of investigation  
7 and prosecution prior to the acceptance of the surrender.

#### 8 **10. Sale or Discontinuance of Business**

9 During the period of probation, should respondent sell, trade or transfer all or part of the  
10 ownership of the licensed entity, discontinue doing business under the license issued to  
11 respondent, or should practice at that location be assumed by another full or partial owner,  
12 person, firm, business, or entity, under the same or a different premises license number, the board  
13 or its designee shall have the sole discretion to determine whether to exercise continuing  
14 jurisdiction over the licensed location, under the current or new premises license number, and/or  
15 carry the remaining period of probation forward to be applicable to the current or new premises  
16 license number of the new owner.

#### 17 **11. Notice to Employees**

18 Respondent shall, upon or before the effective date of this decision, ensure that all  
19 employees involved in permit operations are made aware of all the terms and conditions of  
20 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
21 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
22 remain posted throughout the probation period. Respondent shall ensure that any employees hired  
23 or used after the effective date of this decision are made aware of the terms and conditions of  
24 probation by posting a notice, circulating a notice, or both. Additionally, respondent shall submit  
25 written notification to the board, within fifteen (15) days of the effective date of this decision, that  
26 this term has been satisfied. Failure to timely provide such notification to employees, or to timely  
27 submit such notification to the board shall be considered a violation of probation.

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1 "Employees" as used in this provision includes all full-time, part-time, volunteer,  
2 temporary and relief employees and independent contractors employed or hired at any time  
3 during probation.

4 **12. Owners and Officers: Knowledge of the Law**

5 Respondent shall provide, within thirty (30) days after the effective date of this decision,  
6 signed and dated statements from its owners, including any owner or holder of ten percent (10%)  
7 or more of the interest in respondent or respondent's stock, and all of its officer, stating under  
8 penalty of perjury that said individuals have read and are familiar with state and federal laws and  
9 regulations governing the practice of pharmacy. The failure to timely provide said statements  
10 under penalty of perjury shall be considered a violation of probation.

11 **13. Premises Open for Business**

12 Respondent shall remain open and engaged in its ordinary business as a pharmacy in  
13 California for a minimum of one hundred (100) hours per calendar month. Any month during  
14 which this minimum is not met shall toll the period of probation, i.e., the period of probation shall  
15 be extended by one month for each month during with this minimum is not met. During any such  
16 period of tolling of probation, respondent must nonetheless comply with all terms and conditions  
17 of probation, unless respondent is informed otherwise in writing by the board or its designee. If  
18 respondent is not open and engaged in its ordinary business as a pharmacy for a minimum of one  
19 hundred (100) hours in any calendar month, for any reason (including vacation), respondent shall  
20 notify the board in writing within ten (10) days of the conclusion of that calendar month. This  
21 notification shall include at minimum all of the following: the date(s) and hours respondent was  
22 open; the reason(s) for the interruption or why business was not conducted; and the anticipated  
23 date(s) on which respondent will resume business as required. Respondent shall further notify the  
24 board in writing with ten (10) days following the next calendar month during which respondent is  
25 open and engaged in its ordinary business as a pharmacy in California for a minimum of one  
26 hundred (100) hours. Any failure to timely provide such notification(s) shall be considered a  
27 violation of probation.

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1           **14. Posted Notice of Probation**

2           Respondent shall prominently post a probation notice provided by the board or its designee  
3 in a place conspicuous to and readable by the public within two (2) days of receipt thereof from  
4 the board or its designee. Failure to timely post such notice, or to maintain the posting during the  
5 entire period of probation, shall be considered a violation of probation.

6           Respondent shall not, directly or indirectly, engage in any conduct or make any statement  
7 which is intended to mislead or is likely to have the effect of misleading any patient, customer,  
8 member of the public, or other person(s) as to the nature of and reason for the probation of the  
9 licensed entity.

10           **15. Violation of Probation**

11           If a respondent has not complied with any term or condition of probation, the board shall  
12 have continuing jurisdiction over respondent, and probation shall be automatically extended, until  
13 all terms and conditions have been satisfied or the board has taken other action as deemed  
14 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
15 to impose the penalty that was stayed.

16           If respondent violates probation in any respect, the board, after giving respondent notice  
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
18 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
19 probation, the board shall have continuing jurisdiction and the period of probation shall be  
20 automatically extended until the petition to revoke probation or accusation is heard and decided,  
21 and the charges and allegations in the Accusation shall be deemed true and correct.

22           **16. Completion of Probation**

23           Upon written notice by the board or its designee indicating successful completion of  
24 probation, respondent's license will be fully restored.

25           **17. Consultant Pharmacist**

26           During the period of probation, respondent shall retain an independent consultant at its  
27 own expense who shall be responsible for reviewing pharmacy operations on a monthly basis  
28 for compliance by respondent with state and federal laws and regulations governing the

1 practice of pharmacy and for compliance by respondent. The consultant shall be a pharmacist  
2 licensed by and not on probation with the board and whose name shall be submitted to the  
3 board or its designee, for prior approval, within thirty (30) days of the effective date of this  
4 decision. During the period of probation, the board or its designee, retains the discretion to  
5 reduce the frequency of the pharmacist consultant's review of respondent pharmacy. Six  
6 months after the effective date of the Decision adopting this Stipulated Settlement, the board or  
7 its designee shall make a good faith evaluation of the required frequency of the pharmacist  
8 consultant's review and in its discretion, may reduce the frequency of the pharmacist consultant's  
9 review of respondent pharmacy.

10 Failure to timely retain, seek approval of, or ensure timely reporting by the consultant  
11 shall be considered a violation of probation.

12 **IT IS ALSO HEREBY ORDERED** that Pharmacist License Number RPH 50052 issued  
13 to Respondent Khanh Nguyen is revoked. However, the revocation is stayed and Respondent  
14 Khanh Nguyen is placed on probation for four (4) years on the following terms and conditions.

15 **1. Obey All Laws**

16 Respondent shall obey all state and federal laws and regulations.

17 Respondent shall report any of the following occurrences to the board, in writing, within  
18 seventy- two (72) hours of such occurrence:

- 19 • an arrest or issuance of a criminal complaint for violation of any provision of the  
20 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
21 substances laws
- 22 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal  
23 criminal proceeding to any criminal complaint, information or indictment
- 24 • a conviction of any crime
- 25 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another  
26 administrative action filed by any state or federal agency which involves  
27 respondent's license or which is related to the practice of pharmacy or the  
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1 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,  
2 device or controlled substance.

3 Failure to timely report such occurrence shall be considered a violation of probation.

4 **2. Report to the Board**

5 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
6 designee. The report shall be made either in person or in writing, as directed. Among other  
7 requirements, respondent shall state in each report under penalty of perjury whether there has  
8 been compliance with all the terms and conditions of probation.

9 Failure to submit timely reports in a form as directed shall be considered a violation of  
10 probation. Any period(s) of delinquency in submission of reports as directed may be added to the  
11 total period of probation. Moreover, if the final probation report is not made as directed,  
12 probation shall be automatically extended until such time as the final report is made and accepted  
13 by the board.

14 **3. Interview with the Board**

15 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
16 with the board or its designee, at such intervals and locations as are determined by the board or its  
17 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
18 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
19 the period of probation, shall be considered a violation of probation.

20 **4. Cooperate with Board Staff**

21 Respondent shall timely cooperate with the board's inspection program and with the board's  
22 monitoring and investigation of respondent's compliance with the terms and conditions of Entity  
23 probation, including but not limited to: timely responses to requests for information by board  
24 staff; timely compliance with directives from board staff regarding requirements of any term or  
25 condition of probation; and timely completion of documentation pertaining to a term or condition  
26 of probation. Failure to timely cooperate shall be considered a violation of probation.

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1           **5. Continuing Education**

2           Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
3 pharmacist as directed by the board or its designee.

4           **6. Reporting of Employment and Notice to Employers**

5           During the period of probation, respondent shall notify all present and prospective  
6 employers of the decision in case number 6481 and the terms, conditions and restrictions imposed  
7 on respondent by the decision, as follows:

8           Within thirty (30) days of the effective date of this decision, and within ten (10) days of  
9 undertaking any new employment, respondent shall report to the board in writing the name,  
10 physical address, and mailing address of each of Entity employer(s), and the name(s) and  
11 telephone number(s) of all of Entity direct supervisor(s), as well as any pharmacist(s)-in- charge,  
12 designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s)  
13 and the work schedule, if known. Respondent shall also include the reason(s) for leaving the  
14 prior employment. Respondent shall sign and return to the board a written consent authorizing  
15 the board or its designee to communicate with all of respondent's employer(s) and supervisor(s),  
16 and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,  
17 concerning respondent's work status, performance, and monitoring. Failure to comply with the  
18 requirements or deadlines of this condition shall be considered a violation of probation.

19           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
20 respondent undertaking any new employment, respondent shall cause (a) Entity direct supervisor,  
21 (b) Entity pharmacist-in-charge, designated representative-in-charge, responsible manager, or  
22 other compliance supervisor, and (c) the owner or owner representative of Entity employer, to  
23 report to the board in writing acknowledging that the listed individual(s) has/have read the  
24 decision in case number 6481, and terms and conditions imposed thereby. If one person serves in  
25 more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the  
26 respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the  
27 board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c)  
28 during the term of probation, respondent shall cause the person(s) taking over the role(s) to report

1 to the board in writing within fifteen (15) days of the change acknowledging that he or she has  
2 read the decision in case number 6481, and the terms and conditions imposed thereby.

3 If respondent works for or is employed by or through an employment service, respondent  
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board  
5 of the decision in case number 6481, and the terms and conditions imposed thereby in advance of  
6 respondent commencing work at such licensed entity. A record of this notification must be  
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
9 (15) days of respondent undertaking any new employment by or through an employment service,  
10 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service  
11 to report to the board in writing acknowledging that he or she has read the decision in case  
12 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to  
13 ensure that these acknowledgment(s) are timely submitted to the board.

14 Failure to timely notify present or prospective employer(s) or failure to cause the identified  
15 person(s) with that/those employer(s) to submit timely written acknowledgments to the board  
16 shall be considered a violation of probation.

17 "Employment" within the meaning of this provision includes any full-time, part-time,  
18 temporary, relief, or employment/management service position as a pharmacist, or any position  
19 for which a pharmacist is a requirement or criterion for employment, whether the respondent is an  
20 employee, independent contractor or volunteer.

21 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

22 Respondent shall further notify the board in writing within ten (10) days of any change in  
23 name, residence address, mailing address, e-mail address or phone number.

24 Failure to timely notify the board of any change in employer, name, address, or phone  
25 number shall be considered a violation of probation.

26 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

27 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
28 pharmacist-in-charge, designated representative-in-charge, responsible manager or other



1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption  
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.  
3 The only exception is that Respondent shall be permitted to be the pharmacist-in-charge at  
4 Respondent Warner Village Pharmacy.

5 **9. Reimbursement of Board Costs**

6 As a condition precedent to successful completion of probation, respondent shall pay to the  
7 board its costs of investigation and prosecution in the amount of \$8,000.00. Respondent shall  
8 make said payments according to a plan that is approved by the board or its designee. There shall  
9 be no deviation from this schedule absent prior written approval by the board or its designee.  
10 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

11 Respondent shall be permitted to pay these costs in a payment plan approved by the board  
12 or its designee, so long as full payment is completed no later than one (1) year prior to the end  
13 date of probation.

14 Respondent shall be jointly and severally liable for all of said costs with Respondent  
15 Warner Village Pharmacy.

16 **10. Probation Monitoring Costs**

17 Respondent shall pay any costs associated with probation monitoring as determined by the  
18 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
19 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
20 be considered a violation of probation.

21 **11. Status of License**

22 Respondent shall, at all times while on probation, maintain an active, current Pharmacist  
23 License with the board, including any period during which suspension or probation is tolled.  
24 Failure to maintain an active, current Pharmacist License shall be considered a violation of  
25 probation.

26 If respondent's Pharmacist License expires or is cancelled by operation of law or otherwise  
27 at any time during the period of probation, including any extensions thereof due to tolling or

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otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

#### **12. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish her Pharmacist License, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

#### **13. Practice Requirement – Extension of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of one hundred (100) hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the board or its designee.

If respondent does not practice as a pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification

1 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the  
2 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume  
3 practice at the required level. Respondent shall further notify the board in writing within ten (10)  
4 days following the next calendar month during which respondent practices as a pharmacist in  
5 California for the minimum of hours. Any failure to timely provide such notification(s) shall be  
6 considered a violation of probation.

7 It is a violation of probation for respondent's probation to be extended pursuant to the  
8 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
9 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended  
10 probation period on its website.

#### 11 **14. Violation of Probation**

12 If respondent has not complied with any term or condition of probation, the board shall  
13 have continuing jurisdiction over respondent, and the board shall provide notice to respondent  
14 that probation shall automatically be extended, until all terms and conditions have been satisfied  
15 or the board has taken other action as deemed appropriate to treat the failure to comply as a  
16 violation of probation, to terminate probation, and to impose the penalty that was stayed. The  
17 board or its designee may post a notice of the extended probation period on its website.

18 If respondent violates probation in any respect, the board, after giving respondent notice  
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
20 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
21 probation, or the preparation of an accusation or petition to revoke probation is requested from  
22 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of  
23 probation shall be automatically extended until the petition to revoke probation or accusation is  
24 heard and decided, and the charges and allegations in the Accusation shall be deemed true and  
25 correct.

#### 26 **15. Completion of Probation**

27 Upon written notice by the board or its designee indicating successful completion of  
28 probation, respondent's license will be fully restored.

1           **16. Remedial Education**

2           Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
3 board or its designee, for prior approval, an appropriate program of remedial education related to  
4 controlled substances, corresponding responsibility and duties of the pharmacist-in-charge. The  
5 program of remedial education shall consist of at least ten (10) hours per year of the probation  
6 period which shall be completed at respondent's own expense. In addition, the Board's Diversion  
7 course of at least six (6) hours must be completed within the first year of probation at  
8 respondent's own expense.

9           Respondent shall complete at least half of every year's required amount of hours of  
10 remedial education in person. All remedial education shall be in addition to, and shall not be  
11 credited toward, continuing education (CE) courses used for license renewal purposes for  
12 pharmacists.

13           Failure to timely submit for approval or complete the approved remedial education shall be  
14 considered a violation of probation. The period of probation will be automatically extended until  
15 such remedial education is successfully completed and written proof, in a form acceptable to the  
16 board, is provided to the board or its designee.

17           Following the completion of each course, the board or its designee may require the  
18 respondent, at Entity own expense, to take an approved examination to test the respondent's  
19 knowledge of the course. If the respondent does not achieve a passing score on the examination  
20 that course shall not count towards satisfaction of this term. Respondent shall take another course  
21 approved by the board in the same subject area.

22           **17. No Ownership or Management of Licensed Premises**

23           Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a  
24 manager, administrator, member, officer, director, trustee, associate, or partner of any additional  
25 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or  
26 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,  
27 director, trustee, associate, or partner of any business, firm, partnership, or corporation in  
28 Respondent Warner Village Pharmacy, respondent may continue to serve in such capacity or hold

1 that interest for Respondent Warner Village Pharmacy only, but only to the extent of that position  
2 or interest as of the effective date of this decision. Violation of this restriction shall be considered  
3 a violation of probation.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will  
7 have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order  
8 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
9 Board of Pharmacy.

10  
11 DATED: \_\_\_\_\_

BRIAN BAO-KHA NGUYEN, individually and as the  
authorized agent on behalf of WARNER VILLAGE  
PHARMACY, *Respondent*

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
15 discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will  
16 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order  
17 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
18 Board of Pharmacy.

19  
20 DATED: \_\_\_\_\_

KHANH HUU PHUONG NGUYEN  
*Respondent*

23 I have read and fully discussed with Respondent Brian Bao-Kha Nguyen, dba Warner  
24 Village Pharmacy and Respondent Khanh Huu Phuong Nguyen the terms and conditions and  
25 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
26 form and content.

27 DATED: \_\_\_\_\_

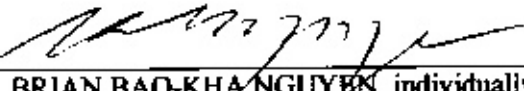
IVAN PETRZELKA  
*Attorney for Respondents*

1 that interest for Respondent Warner Village Pharmacy only, but only to the extent of that position  
2 or interest as of the effective date of this decision. Violation of this restriction shall be considered  
3 a violation of probation.

4 ACCEPTANCE


5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Ivan Petrzeka. I understand the stipulation and the effect it will  
7 have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order  
8 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
9 Board of Pharmacy.

10  
11 DATED: 5/27/2021

  
12 BRIAN BAO-KHA NGUYEN, individually and as the  
13 authorized agent on behalf of WARNER VILLAGE  
14 PHARMACY, Respondent

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
16 discussed it with my attorney, Ivan Petrzeka. I understand the stipulation and the effect it will  
17 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order  
18 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
19 Board of Pharmacy.

20 DATED: 5/27/2021

  
21 KHANH HUU PHUONG NGUYEN  
22 Respondent

23 I have read and fully discussed with Respondent Brian Bao-Kha Nguyen, dba Warner  
24 Village Pharmacy and Respondent Khanh Huu Phuong Nguyen the terms and conditions and  
25 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
26 form and content.

27 DATED: May 27, 2021

  
28 IVAN PETRZELKA  
Attorney for Respondents

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**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

RITA M. LANE  
Deputy Attorney General  
*Attorneys for Complainant*

SD2019702911

**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: May 27, 2021

Respectfully submitted,

ROB BONTA  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



RITA M. LANE  
Deputy Attorney General  
*Attorneys for Complainant*

SD2019702911



**Exhibit A**

**Accusation No. 6859**

1 XAVIER BECERRA  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
4 State Bar No. 171352  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9421  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 6859

14 **BRIAN BAO-KHA NGUYEN, DBA**  
15 **WARNER VILLAGE PHARMACY**  
10900 Warner Avenue, Suite 114  
Fountain Valley, CA 92708

**ACCUSATION**

16 **Pharmacy Permit No. PHY 51984,**

17 **and**

18 **KHANH HUU PHUONG NGUYEN**  
19 **19240 Chandon Ln**  
**Huntington Beach, CA 92648**

20 **Pharmacist License No. RPH 50052**

21 Respondents.  
22

23 **PARTIES**

24 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity  
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

26 2. On or about December 10, 2014, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 51984 to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy (Respondent  
28

Warner Village Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2020, unless renewed.

3. On or about April 6, 1998, the Board of Pharmacy issued Pharmacist License Number RPH 50052 to Khanh Huu Phuong Nguyen (Respondent Khanh Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2021, unless renewed.

### **JURISDICTION**

4. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

6. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

7. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

### **STATUTORY PROVISIONS**

8. Section 4301 of the Code states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or any other state or federal regulatory agency....

9. Section 4113, subdivision (c) of the Code states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

10. Section 4306.5 of the Code states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

....

11. Section 4307, subdivision (a) of the Code states that:

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

12. Health and Safety Code section 11153, subdivision (a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as

1 authorized by this division, the following are not legal prescriptions: (1) an order  
2 purporting to be a prescription which is issued not in the usual course of professional  
3 treatment or in legitimate and authorized research; or (2) an order for an addict or  
4 habitual user of controlled substances, which is issued not in the course of  
professional treatment or as part of an authorized narcotic treatment program, for the  
purpose of providing the user with controlled substances, sufficient to keep him or her  
comfortable by maintaining customary use.

5 ...

6 13. Health and Safety Code section 11162.1, subdivision (a) states:

7 (a) The prescription forms for controlled substances shall be printed with the  
8 following features:

9 (1) A latent, repetitive 'void' pattern shall be printed across the entire front of  
10 the prescription blank; if a prescription is scanned or photocopied, the word "void"  
shall appear in a pattern across the entire front of the prescription.

11 (2) A watermark shall be printed on the backside of the prescription blank; the  
watermark shall consist of the words "California Security Prescription."

12 (3) A chemical void protection that prevents alteration by chemical washing.

13 (4) A feature printed in thermochromic ink.

14 (5) An area of opaque writing so that the writing disappears if the prescription  
15 is lightened.

16 (6) A description of the security features included on each prescription form.

17 (7) (A) Six quantity check off boxes shall be printed on the form so that the  
prescriber may indicate the quantity by checking the applicable box where the  
18 following quantities shall appear:

19 1-24

20 25-49

21 50-74

22 75-100

23 101-150

24 151 and over.

25 (B) In conjunction with the quantity boxes, a space shall be provided to  
designate the units referenced in the quantity boxes when the drug is not in tablet or  
26 capsule form.

27 (8) Prescription blanks shall contain a statement printed on the bottom of the  
prescription blank that the "Prescription is void if the number of drugs prescribed is  
28 not noted."

1 (9) The preprinted name, category of licensure, license number, federal  
controlled substance registration number, and address of the prescribing practitioner.

2 (10) Check boxes shall be printed on the form so that the prescriber may  
3 indicate the number of refills ordered.

4 (11) The date of origin of the prescription.

5 (12) A check box indicating the prescriber's order not to substitute.

6 (13) An identifying number assigned to the approved security printer by the  
Department of Justice.

7 (14) (A) A check box by the name of each prescriber when a prescription form  
8 lists multiple prescribers.

9 (B) Each prescriber who signs the prescription form shall identify himself or  
herself as the prescriber by checking the box by his or her name.

10 14. Health and Safety Code section 11164, subdivision (a) states in pertinent part:

11 Except as provided in Section 11167, no person shall prescribe a controlled  
12 substance, nor shall any person fill, compound, or dispense a prescription for a  
controlled substance, unless it complies with the requirements of this section.

13 Each prescription for a controlled substance classified in Schedule II, III, IV, or  
14 V, except as authorized by subdivision (b), shall be made on a controlled substance  
prescription form as specified in Section 11162.1...

### 15 REGULATORY PROVISIONS

16 15. Section 1761 of title 16, California Code of Regulations states:

17 (a) No pharmacist shall compound or dispense any prescription which contains  
any significant error, omission, irregularity, uncertainty, ambiguity or alteration.  
18 Upon receipt of any such prescription, the pharmacist shall contact the prescriber to  
19 obtain the information needed to validate the prescription.

20 (b) Even after conferring with the prescriber, a pharmacist shall not compound  
or dispense a controlled substance prescription where the pharmacist knows or has  
21 objective reason to know that said prescription was not issued for a legitimate  
medical purpose.

### 22 COST RECOVERY

23 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licensee found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.

27 ///

## DRUGS

17. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III pursuant to Health and Safety Code section 11056, subdivision (e)(4) and a Schedule II controlled substance pursuant to Code of Federal Regulations section 1308.12, subdivision (b)(1)(vi) and a dangerous drug pursuant to Business and Professions Code section 4022. Norco is a drug of high abuse and diversion potential.

18. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section 4022. Oxycodone is a drug of high abuse and diversion potential.

## FACTUAL ALLEGATIONS

19. At all times relevant herein, Respondent Khanh Nguyen was the Pharmacist-in-Charge of Respondent Warner Village Pharmacy, an independent community pharmacy. Respondents Warner Village Pharmacy and Khanh Nguyen (collectively Respondents) filled prescriptions for controlled substances under the prescribing authority of Dr. A.A.

20. From June 10, 2016 through January 23, 2019, Respondents filled **415** of Dr. A.A.'s prescriptions issued for controlled substances, including **410** prescriptions for **21,706 tablets** of oxycodone 30mg and **20,760 tablets** of hydrocodone/acetaminophen (Norco) 10/325mg. Respondents dispensed multiple similar and/or identical prescriptions written by Dr. A.A. on the same day, sometimes within minutes of each other. These prescriptions were assigned consecutive prescription numbers by Respondents' dispensing software, indicating that Respondents filled these prescriptions seriatim. This pattern would have afforded Respondents opportunities to assess irregularities in prescribing.

21. "Patients" paid for over ninety percent of prescriptions written by Dr. A.A. in cash even though patients sought reimbursement from insurance companies or government agencies for approximately ninety-three percent of the prescriptions filled at Respondent Warner Village Pharmacy.

22. Respondents dispensed similar or identical prescriptions written by Dr. A.A. to multiple "patients." Dr. A.A. allegedly wrote prescriptions for Norco 10/325 mg and oxycodone

1 30mg to multiple “patients” with identical directions for use. There was no adjustment in the  
2 prescribing pattern for sex, age, weight, renal or hepatic function, race, diagnosis, past  
3 medications used or any other patient related factor. In fact, Dr. A.A. prescribed oxycodone  
4 30mg to almost all of his “patients” prior to April 27, 2017 and he prescribed Norco 10/325 mg to  
5 almost all of his “patients” after October 4, 2017. Respondents noted in the prescription  
6 documents or verification sheets that many of the “patients” had an identical diagnosis of “lower  
7 back pain.”

8 23. None of the “patients” being treated by Dr. A.A. received a long acting pain  
9 medication to control their baseline pain. Dr. A.A. prescribed only the highest strengths of Norco  
10 and immediate release oxycodone without prescribing a lower strength and increasing the  
11 strength as needed. He also prescribed only immediate release oxycodone and Norco.

12 24. Dr. A.A. listed the same or similar addresses for two or more “patients” who were  
13 prescribed the identical controlled substances on his prescriptions.

14 25. Nine “patients” had home addresses listed on Dr. A.A.’s prescriptions that were more  
15 than 15 miles from Respondent Warner Village Pharmacy and located in Los Angeles County.  
16 Respondents filled prescriptions for these patients even though Respondents’ policies and  
17 procedures for handling controlled substances provided that they would not dispense controlled  
18 substances to “patients” who resided outside of Orange County. Those policies stated that the  
19 “acceptable distance from the patient’s home” to the pharmacy was 20 minutes.

20 26. Dr. A.A.’s offices were located beyond the expected range of business for  
21 Respondent Warner Village Pharmacy or 17.6 miles away from Respondent Warner Village  
22 Pharmacy. His offices were located in Los Angeles County, not Orange County.

23 27. On at least 44 occasions, individuals presented invalid forms of identification (*i.e.*,  
24 California drivers’ licenses expired or bearing an issue date after September 2010 but utilizing an  
25 outdated format) to Respondents when picking up prescriptions for controlled substances written  
26 by Dr. A.A. Dr. A.A.’s “verification sheets” sent to Respondents stated “1. Please clarify if  
27 patient was seen in your office, and indicate if prescription is OK to fill: Yes...No...2. Please  
28 diagnosis [sic] for medical justification.” This was not typical correspondence for a pharmacy to



1 receive from a prescriber's office. Information included on the "verification sheets" did not  
2 address prescription irregularities.

3 28. Although Respondents printed out CURES Patient Activity Reports that showed  
4 "opioid naïve patients" received the highest strengths and doses of oxycodone and Norco, they  
5 dispensed those controlled substances to "patients."

6 29. Respondents dispensed controlled substances pursuant to **54** prescriptions issued by  
7 Dr. A.A., on non-compliant prescription forms missing such required security elements as a  
8 watermark printed on the backside of the prescription blank entitled "California Security  
9 Prescription," and a lot number printed on the prescription forms.

10 30. Respondents did not follow proper procedures for verifying if controlled substance  
11 prescriptions were issued for a legitimate medical purpose.

#### 12 **FIRST CAUSE FOR DISCIPLINE**

##### 13 **(Failing to Comply with Corresponding Responsibility**

##### 14 **for Controlled Substance Prescriptions against Respondents)**

15 31. Respondents are subject to disciplinary action under Code section 4301, subdivision  
16 (j), for violating Health and Safety Code section 11153, subdivision (a), in that they failed to  
17 comply with their corresponding responsibility to ensure that controlled substances were  
18 dispensed for a legitimate medical purpose when they furnished prescriptions for controlled  
19 substances even though "red flags" were present, indicating those prescriptions were not issued  
20 for a legitimate medical purpose, as set forth in paragraphs 19 through 30 above, which are  
21 incorporated herein by reference.

#### 22 **SECOND CAUSE FOR DISCIPLINE**

##### 23 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**

##### 24 **Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

25 32. Respondents are subject to disciplinary action under Code section 4301, subdivision  
26 (o), for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b),  
27 in that they dispensed prescriptions for controlled substances, which contained significant errors,  
28

omissions, irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 19 through 30 above, which are incorporated herein by reference.

### **THIRD CAUSE FOR DISCIPLINE**

#### **(Failure to Exercise or Implement Best Professional Judgment or Corresponding Responsibility when Dispensing Controlled Substances against Khanh Huu Phuong Nguyen)**

33. Respondent Khanh Huu Phuong Nguyen is subject to disciplinary action under Code section 4301, subdivision (o), for violating Business and Professions Code section 4306.5, subdivisions (a) and (b), in that she failed to exercise or implement her best professional judgment or corresponding responsibility when dispensing controlled substances, as set forth in paragraphs 19 through 30 above, which are incorporated herein by reference.

### **FOURTH CAUSE FOR DISCIPLINE**

#### **(Dispensing Controlled Substance Prescriptions Written on Unauthorized Forms)**

34. Respondents are subject to disciplinary action under Code section 4301(j), for violating Health and Safety Code sections 11162.1, subdivision (a) and 11164, subdivision (a), in that they dispensed prescriptions written on unauthorized forms, as set forth in paragraphs 19 through 30 above, which are incorporated herein by reference.

### **FIFTH CAUSE FOR DISCIPLINE**

#### **(Unprofessional Conduct)**

35. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 19 through 30 above, which are incorporated herein by reference.

### **OTHER MATTERS**

36. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 51984 issued to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy, Brian Bao-Kha Nguyen, dba Warner Village Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy

1 Permit Number PHY 51984 is placed on probation or until Pharmacy Permit Number PHY 51984  
2 is reinstated if it is revoked.

3 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY  
4 51984 issued to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy while Brian Bao-Kha  
5 Nguyen has been an owner or manager and had knowledge of or knowingly participated in any  
6 conduct for which the licensee was disciplined, Brian Bao-Kha Nguyen shall be prohibited from  
7 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
8 licensee for five years if Pharmacy Permit Number PHY 51984 is placed on probation or until  
9 Pharmacy Permit Number PHY 51984 is reinstated if it is revoked.

10 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.  
11 RPH 50052 issued to Khanh Huu Phuong Nguyen, Khanh Huu Phuong Nguyen shall be  
12 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
13 or partner of a licensee for five years if Pharmacist License Number RPH 50052 is placed on  
14 probation or until Pharmacist License Number RPH 50052 is reinstated if it is revoked.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking or suspending Pharmacy Permit Number PHY 51984, issued to Brian Bao-  
19 Kha Nguyen, dba Warner Village Pharmacy;

20 2. Revoking or suspending Pharmacist License Number RPH 50052, issued to Khanh  
21 Huu Phuong Nguyen;

22 3. Prohibiting Brian Bao-Kha Nguyen, dba Warner Village Pharmacy from serving as a  
23 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
24 five years if Pharmacy Permit Number PHY 51984 is placed on probation or until Pharmacy  
25 Permit Number PHY 51984 is reinstated if Pharmacy Permit Number PHY 51984 issued to Brian  
26 Bao-Kha Nguyen, dba Warner Village Pharmacy is revoked;

27 4. Prohibiting Brian Bao-Kha Nguyen from serving as a manager, administrator, owner,  
28 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit

Number PHY 51984 is placed on probation or until Pharmacy Permit Number PHY 51984 is reinstated if Pharmacy Permit Number PHY 51984 issued to Brian Bao-Kha Nguyen, dba Warner Village Pharmacy is revoked;

5. Prohibiting Khanh Huu Phuong Nguyen from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 50052 is placed on probation or until Pharmacist License Number RPH 58047 is reinstated if Pharmacist License Number RPH 50052 issued to Khanh Huu Phuong Nguyen is revoked;

6. Ordering Brian Bao-Kha Nguyen, dba Warner Village Pharmacy and Khanh Huu Phuong Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

7. Taking such other and further action as deemed necessary and proper.

DATED: April 6, 2020



ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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